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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

17-cr-683 (LAP)

5 CHUCK CONNORS PERSON and
6 RASHAN MICHEL,

7 Defendants.

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8 New York, N.Y.
9 November 14, 2017
10 10:30 a.m.

11 Before:

12 HON. LORETTA A. PRESKA

13 District Judge

14 APPEARANCES

15 JOON H. KIM

16 Acting United States Attorney for the
Southern District of New York

17 BY: ROBERT L. BOONE, ESQ.

NOAH D. SOLOWIEJCZYK, ESQ.

18 ALINE R. FLODR, ESQ.

Assistant United States Attorneys

19 SHER TREMONTE LLP

20 Attorneys for Defendant Person

21 BY: THERESA M. TRZASKOMA, ESQ.

EMMA S. SPIRO, ESQ.

22 COOLEY LLP

Attorneys for Defendant Michel

23 BY: JONATHAN P. BACH, ESQ.

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(In open court)

THE COURT: United States v. Person. Is the government ready?

MR. BOONE: Yes. Good morning, your Honor. Robert Boone for the government. Here with me at counsel table is AUSA Noah Solowiejczyk and Aline Flodr.

THE COURT: Good morning. And are the defendants ready?

MS. TRZASKOMA: Good morning, your Honor. Theresa Trzaskoma from Sher Tremonte. I am here with Emma Spiro from my firm for Mr. Person.

THE COURT: Thank you.

MR. BACH: Good morning, your Honor. Jonathan Bach on behalf of Rashan Michel, who is here next to me.

THE COURT: Very good. Thank you.

Counsel, what's the status of discovery, please?

MR. BOONE: Your Honor, we are still collecting some of the discovery. I can go over in detail the type of discovery that's involved.

In terms of the types of discovery, we obtained search warrants for the phones of both defendants. We're producing those. We issued several subpoenas for various things, such as bank records, phone toll records, phone subscriber information, credit reports, and some other subpoenas. But the bulk of the discovery is going to be judicially obtained wiretaps

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1 applications and the related recordings from those
2 applications.

3 For defendant Chuck Person, we were able to obtain
4 authorization to tap two of his phones. On one of those
5 phones, we intercepted calls over three different 30-day
6 periods. On another phone we intercepted calls over one 30-day
7 period. For defendant Rashan Michel, we tapped one of his
8 phones, and we had intercepted calls over five different 30-day
9 periods for that phone. So we're in the process of gathering
10 that. We believe we will have it by the end of next week. And
11 we'll be in a position to produce it immediately after, or
12 shortly thereafter at least. We'll likely try to seek a
13 protective order related to that information. But assuming
14 there are no issues of fact --

15 THE COURT: A protective order of what?

16 MR. BOONE: So that the tapes aren't disseminated
17 outside of the case.

18 THE COURT: All right. Do you have a sense of how
19 lengthy the tapes are? I mean, I know you told me 30, 60, 90
20 days, whatever. Do you have any sense at all about the volume?

21 MR. BOONE: I do, your Honor. So for Chuck Person,
22 for one of the phones we tapped, we've estimated that there is
23 approximately an hour worth of pertinent phone calls. For
24 another phone of Chuck Person, we've estimated that there are
25 approximately 15 hours' worth of pertinent phone calls. For

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1 Rashan Michel, we've estimated that there are -- there is,
2 rather -- estimated time of 36 hours of pertinent phone calls.

3 THE COURT: All right. That's helpful.

4 MR. BOONE: And I believe -- yes, we also obtained
5 post-arrest statements from Chuck Person. We intend to turn
6 those over today.

7 THE COURT: Thank you.

8 And your view is that you'll be able to turn it all
9 over by next week, end of the week?

10 MR. BOONE: I think we'll be able to start production
11 of the wiretaps next week. Some of the other subpoenaed
12 returns and other things might take a little longer, in part
13 because we do have some subpoenas outstanding that we're
14 waiting to receive return to.

15 THE COURT: All right. Thank you.

16 Does defense counsel have any comment on any of that?

17 MS. TRZASKOMA: I don't, your Honor.

18 MR. BACH: No, your Honor.

19 THE COURT: Thank you.

20 May I ask the government, of course we all know that
21 there are two other cases in the court, one with Judge Ramos
22 and one with Judge Kaplan. Would you tell me why there are
23 three cases and whether or not there are any efficiencies to be
24 gained from readjusting that?

25 MR. BOONE: Yes, your Honor. So there are three

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1 separate indictments, and there are also three separate
2 complaints, because although the conduct is similar, the
3 individuals involved are in three different schemes. So for
4 that reason we felt it was appropriate to treat them as
5 separate cases. So, for instance, this scheme, the
6 participants in this scheme don't really relate to the other
7 ones and vice versa. There is some overlap. In two of the
8 cases, there are defendants charged in both. But, again, it's
9 our view that they are involved in two different schemes.

10 THE COURT: And those are the other two cases, and
11 those are the Adidas defendants.

12 MR. BOONE: Correct.

13 THE COURT: OK. Does defense counsel have any comment
14 on any of that?

15 MS. TRZASKOMA: I don't, your Honor.

16 MR. BACH: None, your Honor.

17 THE COURT: All right. I'm going to set a date for
18 counsel to come back in and tell us where you are in your
19 review of the materials and, if not then, when you want to come
20 back and tell me if there are going to be motions.

21 THE CLERK: How is December 4th at 11:30?

22 MS. TRZASKOMA: One moment, your Honor.

23 THE COURT: Yes, ma'am.

24 MS. TRZASKOMA: That's fine.

25 MR. BACH: That's fine, your Honor, on the

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1 understanding we might not be all the way through the material.

2 THE COURT: All right. Would you do this. Why don't
3 you let me know in advance if you need to come in or not, all
4 right, a couple days ahead?

5 MS. TRZASKOMA: Yes, your Honor. We can do that.

6 THE COURT: Yes, ma'am.

7 Mr. Boone.

8 MR. BOONE: Yes. We would like to exclude time. But
9 we also think defendant should be arraigned on the indictment.

10 THE COURT: Oh, forgive me. I didn't realize that we
11 didn't do that.

12 All right. Gentlemen, would you stand, please.

13 Gentlemen, have you received a copy of the indictment,
14 17 Crim. 683, sir?

15 DEFENDANT PERSON: Yes, your Honor.

16 THE COURT: Sir.

17 DEFENDANT MICHEL: Yes, ma'am.

18 THE COURT: Have you gone over it with your lawyers?

19 DEFENDANT PERSON: Yes.

20 DEFENDANT MICHEL: Yes, ma'am.

21 THE COURT: Gents, do you want me to read the whole
22 thing out loud in court now, or is it enough that you discussed
23 it with your lawyers?

24 DEFENDANT PERSON: I waive the public reading.

25 DEFENDANT MICHEL: No, ma'am.

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1 THE COURT: How do you now plead, sir?

2 DEFENDANT PERSON: Not guilty, your Honor.

3 THE COURT: Sir?

4 DEFENDANT MICHEL: Not guilty.

5 THE COURT: Thank you, gentlemen.

6 Mr. Boone.

7 MR. BOONE: Your Honor, we would ask that time be
8 excluded in the interests of justice to give the government
9 time to produce discovery but also to give defense counsel time
10 to review that discovery with their clients.

11 THE COURT: Through December 4, right, sir?

12 MR. BOONE: Yes, through December 4.

13 THE COURT: Any objection, counsel?

14 MS. TRZASKOMA: No objection, your Honor.

15 MR. BACH: No, ma'am.

16 THE COURT: In order to permit the government to make
17 discovery and the defense to review the discovery, time between
18 today and December 4 is excluded from calculation under the
19 Speedy Trial Act, in the interests of justice.

20 Anything else, counsel?

21 MS. TRZASKOMA: Nothing from us, your Honor.

22 MR. BACH: Nothing further.

23 MR. BOONE: Nothing from the government.

24 THE COURT: Thank you, counsel. Good morning.

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